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100TH CONGRESS
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SENATE

REPORT
100-353

AMENDING THE SECOND SUPPLEMENTAL APPROPRIATION ACT, 1961, RELATING TO THE LEASE OF CERTAIN LANDS FROM THE ISLETA INDIAN TRIBE FOR A SEISMOLOGICAL LABORATORY

MAY 23 (legislative day, MAY 18), 1988.—Ordered to be printed

Mr. INOUYE, from the Select Committee on Indian Affairs, submitted the following

REPORT

[To accompany S. 1945]

The Select Committee on Indian Affairs, to which was referred the bill (S. 1945) to amend the Second Supplemental Appropriation Act, 1961, relating to the lease of certain lands from the Isleta Indian Tribe for a seismological laboratory, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

S. 1945 is a bill to amend the Second Supplemental Appropriation Act, 1961, relating to the lease by the United States of certain lands from the Isleta Indian Tribe for a seismological laboratory. The bill was introduced by Senator Bingaman, for himself and Senator Domenici, on December 11, 1987, and was referred to this Committee for consideration. The purpose of the bill is to authorize the United States to pay to the Isleta Indian Tribe fair market value for land leased from the Tribe for a seismological laboratory operated under the aegis of the U.S. Geological Survey.

BACKGROUND AND NEED

The Second Supplemental Appropriation Act, 1961 (Public Law 86-722; 74 Stat. 821), authorized construction and equipment of a seismological laboratory on a site to be leased from the Isleta Indian Tribe on the Isleta Indian Reservation in New Mexico. The law authorized leasing of the subject tribal lands for a minimum of 25 years with provision for renewal. Any lease entered into under Public Law 86-722 is required to provide for an annual rent not in excess of $1,200 as well as prescribe the terms and conditions in

S413-5

which the tribe can jointly use land not specifically needed for the laboratory.

In 1960 the Federal Government entered into a 25 year lease for 673.36 acres for $1,027.35 per year. The laboratory was constructed on approximately 10 acres of land, the remainder being reserved as a buffer zone to avoid blasting, drilling, or other deleterious activity. This lease expired in September of 1985. The U.S. Geological Survey has entered into a 3-year interim lease of the property for the sum of $1,200.00, the maximum allowed by statute.

S. 1945 will amend the 1921 Second Supplemental Appropriation Act to authorize the United States to pay the tribe fair market value for the leased land, fair market value to be determined by an independent appraiser, with an additional payment retroactive to September 1985 to provide fair market value for this period.

Legislative History

S. 1945 was introduced by Senator Bingaman, for himself and Senator Domenici, on December 11, 1987, and was referred to the Select Committee on Indian Affairs for consideration. There have been no hearings on this measure. The bill was originally forwarded to the Congress by the Department of the Interior and enjoys the support of the Administration. The Isleta Pueblo has also expressed its support in the form of a formal council resolution. There is no companion bill in the House of Representatives. In an open business session on April 28, 1988, the Select Committee on Indian Affairs, by a unanimous vote of a quorum present, ordered S. 1945 reported without amendment with a favorable recommendation and passage of the bill as reported.

Committee Recommendation and Tabulation of Vote

The Select Committee on Indian Affairs, in open business session on April 28, 1988, by unanimous vote of a quorum present, ordered S. 1945 reported with a recommendation that the bill do pass without amendment.

Section-by-Section Analysis

There is only one section in S. 1945. Section one of the bill amends the Second Supplemental Appropriation Act, 1961 (Public Law 86-722; 74 Stat. 821), under the headings "Department of Commerce, Coast and Geodetic Survey, Construction and Equipment", by adding a new sentence to provide that:

> Any lease renewal entered into hereunder after September 25, 1985, shall provide for payment of an annual rental equal to fair market rental value, based on an independent appraisal approved by the Secretary of the Interior or his designee, provided that such rental shall be reviewed every five years and readjusted thereafter, based on an approved reappraisal of the land. For the first such renewal, the payment of fair market value shall be made retroactive to September 26, 1985.

Cost and Budgetary Consideration

The cost estimate for S. 1945 as provided by the Congressional Budget Office is set forth below:

U.S. Congress,
Congressional Budget Office,
Washington, DC, May 9, 1988.

Hon. Daniel K. Inouye,
Chairman, Select Committee on Indian Affairs, U.S. Senate, Hart Senate Office Building, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 1945, a bill to amend the Second Supplemental Appropriation Act, 1961, relating to the lease of certain lands from the Isleta Indian Tribe for a seismological laboratory, as ordered reported by the Senate Select Committee on Indian Affairs, April 28, 1988.

S. 1945 would require the federal government to pay fair market value for the lease of certain lands from the Isleta Indian Tribe. Under the bill, fair market value would be determined by an independent appraisal approved by the Secretary of the Interior, and would be reviewed and readjusted every five years. Lease payments based on fair market value would be retroactive to September 1985.

CBO estimates that the cost of this bill over the 1989–1993 period would be between $200,000 and $300,000, including retroactive payments. This estimate is based on the difference between the current statutory maximum for the lease payment of $1,200 per year and the current fair market value of the land as estimated by the Bureau of Indian Affairs. Although no formal appraisal of the land has recently been performed, the BIA estimates the current fair market value to be $30,000 to $40,000 per year.

No costs would be incurred by state or local governments as a result of enactment of this bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

James L. Blum,
Acting Director.

Regulatory Impact Statement

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 1945 will have no regulatory or paperwork impact.

Executive Communications

The Committee received the following correspondence from the Department of the Interior:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, April 28, 1988.

Hon. DANIEL K. INOUYE,
Chairman, Select Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on S. 1945, "To amend the Second Supplemental Appropriations Act, 1961, relating to the lease of certain lands from the Isleta Indian Tribe for a seismological laboratory."

We strongly support the enactment of S. 1945. This bill is identical to a draft bill the Department submitted to the Congress on July 16, 1987.

The Second Supplemental Appropriation Act, 1961 (Public Law 86-722; 74 Stat. 821), authorized construction and equipment of a seismological laboratory on a site to be leased from the Isleta Indian Tribe on the Isleta Indian Reservation in Bernalillo County, New Mexico. The law authorized leasing of the subject tribal lands for a minimum of 25 years with provisions for renewal. Any lease entered into under Public Law 86-722 is required to provide for an annual rent not in excess of $1,200 and for terms and conditions under which the tribe can jointly use land not specifically needed for the laboratory.

Pursuant to Public Law 86-722, the Federal Government entered into a 25-year lease in September 1960 for 673.36 acres of tribal land located on the Isleta Indian Reservation. Stated rental under this lease was $1,027.35 per year. The laboratory was subsequently constructed on approximately ten acres of leased land. The remainder of the acreage was reserved as a buffer zone to avoid blasting, drilling or any other activity that would raise the ambient noise level or that would interfere with the functioning of laboratory instruments within the laboratory. We are informed that certain laboratory appurtenances (primarily cables and monitors) have been located in the buffer zone outside of the ten acre laboratory area for the purpose of gathering seismological data.

Upon expiration of the 1960 lease in September 1985, the U.S. Geological Survey, which assumed responsibility for the management of the laboratory by interagency agreement in 1973, entered into a three-year interim lease for the subject tract at a rental of $1,200 per year. The interim lease was negotiated with the understanding that this Department would seek legislation to permit payment of the adjusted fair market rental value as determined by an independent appraiser, with an additional payment to be retroactive to September 1985.

S. 1945 would amend Public Law 86-722 to: (1) remove the $1,200 annual rental limitation; (2) permit payment of the current (1985) fair market value of the leased land; and (3) provide for periodic review and adjustment of the rental thereafter based on an approved reappraisal.

We support the enactment of S. 1945. Enactment of the legislation would be a fair resolution of the leasehold issue. It would allow the U.S. Geological Survey to maintain its laboratory on the

leased property for a long period of time, while providing the Isleta Tribe fair market value.

The Office of Management and Budget has advised that there is no objection to the submission of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

WAYNE N. MARCHANT,
Acting Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes the following changes in existing law made by S. 1945 (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no changes are proposed is shown in roman):

Public Law 86-722, 74 Stat. 822, is amended as follows:

CONSTRUCTION AND EQUIPMENT

For the purpose of obtaining a suitable site for construction of a Coast and Geodetic Survey Seismological Laboratory, the Secretary of Commerce is authorized, on behalf of the United States, to lease from the Isleta Indian Tribe, and the Isleta Indian Tribe, with the approval of the Secretary of the Interior, is authorized to lease to the Secretary of Commerce, for a minimum term of 25 years with provisions for renewal, approximately seven hundred and fifty acres, more or less, of tribal land on the Isleta Indian Reservation; such land being situated in sections 5, 6, 7, and 8, township 8 north, range 5 east, New Mexico principal meridian, county of Bernalillo, State of New Mexico. Any lease entered into hereunder shall provide for an annual rental not in excess of $1,200, and shall prescribe the terms and conditions under which the tribe may jointly use that portion of the leased area not specifically needed for the Laboratory. *Any lease renewal entered into hereunder after September 25, 1985, shall provide for payment of an annual rental equal to fair market rental value, based on an independent appraisal approved by the Secretary of the Interior or his designee, provided that such rental shall be reviewed every five years and readjusted thereafter, based on an approved reappraisal of the land. For the first such renewal, the payment of fair market value shall be made retroactive to September 26, 1985.*

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